

**LODI CITY COUNCIL
REGULAR CITY COUNCIL MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, APRIL 6, 2005**

C-1 CALL TO ORDER / ROLL CALL

The City Council Closed Session meeting of April 6, 2005, was called to order by Mayor Beckman at 5:30 p.m.

Present: Council Members – Hansen, Johnson, Mounce, and Mayor Beckman

Absent: Council Members – Hitchcock

Also Present: City Manager King, City Attorney Schwabauer, and City Clerk Blackston

C-2 ANNOUNCEMENT OF CLOSED SESSION

- a) Actual litigation: Government Code §54956.9(a); one case; Timothy Thalken v. City of Lodi, U.S. District Court, Eastern District Case No. CV-00514-EJG-KJM
- b) Actual litigation: Government Code §54956.9(a); one case; People of the State of California; and the City of Lodi, California v. M & P Investments, et al.; United States District Court, Eastern District of California, Case No. CIV-S-00-2441 FCD JFM
- c) Actual litigation: Government Code §54956.9(a); one case; Hartford Accident and Indemnity Company, et al. v. City of Lodi, et al., Superior Court, County of San Francisco, Case No. 323658
- d) Conference with legal counsel – initiation of litigation: Government Code §54956.9(c); two cases
- e) Conference with legal counsel – anticipated litigation – significant exposure to litigation pursuant to subdivision (b) of Section 54956.9; one case; pursuant to Government Code §54956.9(b)(3)(A) facts, due to not being known to potential plaintiffs, shall not be disclosed
- f) Actual litigation: Government Code §54956.9(a); one case; Fireman's Fund Insurance Company v. City of Lodi, et al., United States District Court, Eastern District of California Case No. CIV-S-98-1489 FCD JFM
- g) Actual litigation: Government Code §54956.9(a); one case; City of Lodi v. Michael C. Donovan, an individual; Envision Law Group, LLP, et al., San Joaquin County Superior Court, Case No. CV025569
- h) Actual litigation: Government Code §54956.9(a); one case; Environmental Forensic Investigations, Inc. v. City of Lodi, San Joaquin County Superior Court, Case No. CV-024899
- i) Actual litigation: Government Code §54956.9(a); one case; Farr Associates v. City of Lodi, San Joaquin County Superior Court, Case No. CV-025075
- j) Actual Litigation: Government Code §54956.9(a); one case; Magellan Environmental, Inc. v. City of Lodi, San Joaquin County Superior Court, Case No. CV-024898
- k) Actual litigation: Government Code §54956.9(a); one case; Dockter v. City of Lodi, et al., Superior Court of California, County of San Joaquin, Stockton Branch; Case No. CV 023845

C-3 ADJOURN TO CLOSED SESSION

At 5:30 p.m., Mayor Beckman adjourned the meeting to a Closed Session to discuss the above matters.

The Closed Session adjourned at 6:30 p.m.

C-4 RETURN TO OPEN SESSION / DISCLOSURE OF ACTION

At 7:00 p.m., Mayor Beckman reconvened the City Council meeting, and City Attorney Schwabauer disclosed the following actions.

In regard to Item C-2 (a), Council provided direction.

In regard to Item C-2 (b), Council granted authorization to settle with GE Capital, defendant in the south central western plume solely as a foreclosing lender in the amount of \$30,000.

Items C-2 (c) through (k) were direction or discussion only.

A. CALL TO ORDER / ROLL CALL

The Regular City Council meeting of April 6, 2005, was called to order by Mayor Beckman at 7:00 p.m.

Present: Council Members – Hansen, Johnson, Mounce, and Mayor Beckman

Absent: Council Members – Hitchcock

Also Present: City Manager King, City Attorney Schwabauer, and City Clerk Blackston

B. INVOCATION

The invocation was given by Chaplain Barbara Taylor, Lodi Police Chaplains.

C. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mayor Beckman.

D. AWARDS / PROCLAMATIONS / PRESENTATIONS

D-1 Awards – None

D-2 (a) Mayor Beckman presented a proclamation to Police Chief Jerry Adams and Dispatcher-Jailer Kim VanTassel, representing the Lodi Police Dispatchers Association, proclaiming the week of April 10 – 16 as “National Telecommunicators Week” in the City of Lodi.

D-2 (b) Mayor Beckman presented a proclamation to Police Chief Jerry Adams and Police Volunteer Supervisor Jeanie Biskup, representing the Lodi Police Partners, proclaiming the week of April 17 – 23 as “National Volunteers Week” in the City of Lodi. Ms. Biskup reported that in 2004 Police Partners contributed 26,041 volunteer hours. Partners volunteers presented a mock check to the City in the amount of \$463,269, which represented the value of their volunteer work based on \$17.80 an hour.

D-2 (c) Mayor Beckman presented a proclamation to Dale Bishop, Deputy Director for Maternal and Child Health, proclaiming the week of April 4 – 10 as “Public Health Week” in the City of Lodi.

D-2 (d) Mayor Beckman presented two proclamations to Nancy Martinez, Library Services Director, proclaiming the week of April 11 – 17 as “National Library Week” and Tuesday, April 12 as “National Library Workers Day” in the City of Lodi.

D-3 (a) Mayor Beckman presented a Resolution of Appreciation to Community Development Director, Rad Bartlam, who was leaving employment with the City after nine years of dedicated service. Mr. Bartlam commented that the value of service in his profession could be measured by “whether you leave the city better than it was when you came.” He believed his time serving as Community Development Director in Lodi had been productive and beneficial. He challenged Council and the community to make Lodi the best place it could be.

E. CONSENT CALENDAR

In accordance with the report and recommendation of the City Manager, Council, on motion of Mayor Beckman, Hansen second, approved the following items hereinafter set forth **except those otherwise noted** by the vote shown below:

Ayes: Council Members – Hansen, Johnson, Mounce, and Mayor Beckman

Noes: Council Members – None

Absent: Council Members – Hitchcock

- E-1 Claims were approved in the amount of \$14,223,595.25.
- E-2 The minutes of February 3, 2005 (Special Meeting), March 16, 2005 (Regular Meeting), March 22, 2005 (Shirtsleeve Session), March 22, 2005 (Special Meeting), March 25, 2005 (Special Meeting), and March 29, 2005 (Shirtsleeve Session) were approved as written.
- E-3 Adopted Resolution No. 2005-56 approving specifications, authorizing advertisement for bids as required, and further authorizing the City Manager to award or reject contract for services for the abatement by demolition and clearing at the property located at 428 Railroad Avenue (APN 043-201-16) in an amount up to \$8,000.
- E-4 Adopted Resolution No. 2005-57 approving specifications, authorizing the bidding process as required, and further authorizing the City Manager to award or reject contract for services for the abatement of violations at the property located at 2019 Kenway Court (APN 029-160-36) in an amount up to \$5,000.
- E-5 “Adopt resolution approving the standardization of solid state meters for residential and small commercial application with Itron, of Spokane, Washington” was ***removed from the Consent Calendar and discussed and acted upon following approval of the Consent Calendar.***
- E-6 Adopted Resolution No. 2005-58 authorizing the purchase of one mobile digital computer and Golden Eagle radar unit to replace the ones that were destroyed in an electrical fire in police patrol vehicle #05-037 on March 2, 2005, from DATA 911, of Alameda, CA, in the amount of \$6,897, and Kustom Signals, Inc., of Lenexa, KS, in the amount of \$2,580 (using Federal Block Grant Funds).
- E-7 Accepted improvements under “Well 10C Pump and Motor, 790 North Guild Avenue” contract.
- E-8 Accepted improvements under “Public Safety Building Fire/Smoke Damage Demolition and Clean Up, 230 West Elm Street” contract.
- E-9 Adopted Resolution No. 2005-59 accepting Harney Lane street frontage improvements in Century Meadows One, Unit 2, Tract No. 2786.
- E-10 Approved payment in the amount of \$20,000 for Northeastern San Joaquin County Groundwater Banking Authority.
- E-11 Adopted Resolution No. 2005-60 appropriating additional funds in the amount of \$21,000 for Disabled Access Ramps Change Order for Municipal Service Center Public Works Locker Room Expansion Project.
- E-12 Adopted Resolution No. 2005-61 authorizing application for grant funds to help operate the Senior Information Referral Services Center at Hutchins Street Square for a four-year period (July 1, 2005 to June 30, 2009) under the Older Americans Act Fund, Title III-E (Local Information and Assistance) through the San Joaquin County Human Services Agency.
- E-13 Adopted Resolution No. 2005-62 authorizing the City Manager to execute a five-year contract for Public Works 800 MHz radio transmission service with LaRue Communications, Inc., of Stockton, in the amount of \$14,580 annually.
- E-14 Adopted Resolution No. 2005-63 authorizing the City Manager to execute a professional services agreement with Padilla & Associates, Inc., in the amount of \$6,300, for submittal of the City of Lodi’s Disadvantaged Business Enterprise Program Overall Annual Goal for Federal Fiscal Year 2005-06.

ACTION ON ITEM REMOVED FROM THE CONSENT CALENDAR

- E-5 "Adopt resolution approving the standardization of solid state meters for residential and small commercial application with Itron, of Spokane, Washington"

Council Member Hansen pointed out that the use of electronic meters would be more efficient and result in reduced staffing and cost savings.

Mel Grandi, Electric Services Manager, reported that the solid state meters are installed at new homes and through an attrition process. He stated that Electric Utility plans to establish a program and deployment policy regarding automated meter reading and the associated cost. Electric Utility is attempting to incorporate automated meter reading with its fiber network that it is deploying at this time.

Council Member Johnson asked that a presentation be given to Council in the near future regarding this topic, e.g. how soon it can be implemented, options, and funding issues.

Council Member Hansen commented that others are way ahead of Lodi on fiber optics and are offering it as a benefit to their ratepayers and as a revenue source. He asked the City Manager if the program could be accelerated and expressed support for Mr. Johnson's suggestion.

MOTION / VOTE:

The City Council, on motion of Council Member Hansen, Johnson second, adopted Resolution No. 2005-64 approving the standardization of solid state meters for residential and small commercial application with Itron, of Spokane, Washington. The motion carried by the following vote:

Ayes: Council Members – Hansen, Johnson, Mounce, and Mayor Beckman

Noes: Council Members – None

Absent: Council Members – Hitchcock

F. COMMENTS BY THE PUBLIC ON NON-AGENDA ITEMS

- Dyric Ramirez distributed a report to Council (filed). He stated that the Community Service District of Elk Grove maintains full-time security at its skate park. He believed that safety equipment was a parent's responsibility. In Elk Grove, helmet and pad compliance is 20%. Non-skating youth have entered the skate park three times and physically assaulted some of the children. Mr. Ramirez stated that skate parks are only successful with some level of proactive supervision and programming. He offered several suggestions and recommended that Council contract with a skate park operator.

Council Member Hansen recalled that the original cost of the skate park was \$500,000 to \$600,000. In addition, a citizen donated \$10,000 recently to repair the equipment. He expressed doubt that the park would remain open and noted that liability is a significant concern.

G. COMMENTS BY CITY COUNCIL MEMBERS ON NON-AGENDA ITEMS

- Council Member Mounce announced that she attended the reorganization meetings of the Sister City Committee and Lodi Improvement Committee and was very impressed with both.
- Council Member Hansen reported that he attended another San Joaquin Council of Governments Regional Transportation Impact Fee Policy Committee meeting, which continues to be a challenge. Addressing Community Development Director Bartlam, Mr. Hansen thanked him for his service to the City, noting that he had a difficult job and yet he always maintained a professional attitude, was responsive, and held fast to what he believed in.

H. COMMENTS BY THE CITY MANAGER ON NON-AGENDA ITEMS

- City Manager King thanked those who attended the March 30 Fiscal Forum. He offered to bring the presentation to any service groups in the community who are interested. Mr. King announced that he would not be in attendance at the April 20 City Council meeting.

I. PUBLIC HEARINGS

- I-1 Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Beckman called for the public hearing to consider introducing an ordinance to repeal and re-enact Chapter 15.20 (Fire Code) of the Lodi Municipal Code and review a resolution establishing a master fee schedule for cost recovery for services provided by the Lodi Fire Department (fee resolution included for information only; no action required until final adoption of ordinance).

Fire Chief Pretz recalled that at the March 15 Shirtsleeve Session on this topic a question was raised regarding the Insurance Services Office (ISO) rating and insurance rates. Staff spoke with an ISO representative who explained that higher ratings give commercial insurance brokers more "leeway" in setting rates. He reported that the proposed business inspection program includes two inspections by engine companies that would be done free of charge. Following this, a charge would be levied if the Fire Prevention Bureau had to be involved in corrective action for non-compliance. An additional aspect of the program is the inclusion of fees for new development review, tenant improvement review, various permits for hazardous materials, storage, production, and other types of operations such as commercial cooking. He commented that General Mills expressed concern that the Fire Department's proposal would replicate services of the County. Chief Pretz stated that this was not correct, as the County Office of Emergency Services is not involved in enforcement activities.

Fire Marshal Person reported that staff's purpose this evening was to introduce the Fire Protection Business Plan for Lodi. It includes components for a cost recovery system for inspections and development review, as well as the repeal and re-adoption of the Lodi Municipal Fire Code. Business inspections were conducted in Lodi until 1985. Fire Marshal Person stated that reimplementation of the inspection program and implementation of new Fire Codes would reduce the number of future fires. The current practice has been not to charge users for services performed by the Fire Prevention Bureau such as plan checking for new buildings, subdivision review, or operations of equipment required to be permitted by the Fire Code. Staff feels this should not be a cost borne by all taxpayers, as it specifically benefits individuals or businesses. The Fire Prevention Bureau is comprised of the Fire Marshal, one Fire Inspector, and one Senior Administrative Clerk who splits her time with the training division. The Bureau handles State-mandated and complex inspections requiring specialized training, permitting, Fire Code violations, and is utilized as a consultant for business inspections. The inspection program is divided into four categories: 1) inspections which are mandated by State law, 2) permits and inspections required by State Fire Code, 3) business inspections, and 4) development review. Staff's recommendation is to impose fees on state mandated inspections with the exception of apartments, which will be included in the Fire engine company inspection program. In addition to State required permits, staff is recommending three additional permits within the Lodi Municipal Fire Code: 1) Christmas tree lots, 2) haunted houses, and 3) special events. The proposal includes the provision that multiple permits within one business will be charged the rate for the highest permitted operation and 50% for any additional required permit. Streamlining the permit process with a single application and single fees for all permits at a business will also be implemented. Business inspections of apartments, retail, and commercial buildings will be handled by line firefighters. The business inspections will be done on a three-year cycle. One third of the businesses (1,000) will have on-site inspections done each year. The first inspection and follow up inspection will be conducted free of charge. Any additional inspections will be conducted by the Fire

Prevention Bureau and charged a \$75 re-inspection fee. Staff's recommendation is not to charge for business inspections (i.e. initial and one follow up, or self-inspections), which are not mandated or do not require permits.

Fire Marshal Person reported that he introduced this proposal to contractors, developers, and the Building Industry Association, and to date has not received any negative responses. He stated that an additional program proposed within the development portion is the certificate of occupancy inspection, which will be conducted for all businesses in which there is a change of the occupant or business owner. He explained that it will be a preliminary fire and life safety inspection of the business to ensure that all codes are in compliance. Three sections are proposed to be added to the Municipal Code related to current local practices. The appeals process was modified to coincide with Community Development and Public Works to create standardization throughout the City. Several corrections were also made to Lodi Municipal Code Chapter 15.20, Fire Code, and to Chapter 9.12, Fire, Firearms and Fireworks. A quantitative study was conducted of the business plan to determine the appropriate cost and fees. Staff feels it is in line with or below the average cost of fees charged by other jurisdictions. The plan will have a two-year phased implementation and later adjustments will be made to reflect historical cost and data gathered. He stated that the cost recovery is distributed proportionately among the direct users, rather than the taxpayers.

Mayor Beckman recalled that Mayor Pro Tempore Hitchcock had asked at the March 15 Shirtsleeve Session to be provided with data that shows fire inspections reduce the incidence of fires.

Fire Marshal Person replied that he was unable to locate such information.

Mayor Beckman stated that he had previously asked what criteria the Fire Department used to determine which services to charge a fee for.

Fire Marshal Person reported that "time on task" was analyzed. He explained that inspection times were obtained from other jurisdictions.

Mayor Beckman reiterated his March 15 request for a description of the various fire department classifications, the criteria used in the rating process, and Lodi's last report.

In response to questions posed by Council Member Johnson, Chief Pretz explained that the strategic plan is an overall plan of what the Fire Department will look like over the next 20 years. He suggested that the Fire Department Strategic Plan be folded into the City's upcoming General Plan update. In reference to the subject of staffing, Fire Marshal Person stated that computer programs would automate much of the process. He acknowledged that his workload and that of the Fire Inspector's would be increased. He did not anticipate the need for additional staffing in the foreseeable future.

In reply to Council Member Mounce, Fire Marshal Person reported that approximately 50% of the \$33,000 set up cost is for computer related matters. He stated that money had been set aside to allow overtime one day a week for a line personnel position to assist with this program. It is anticipated to cost \$15,000 a year. He believed that \$100,000 would be generated in the first year of the program.

Hearing Opened to the Public

- Pat Patrick, President/CEO of the Chamber of Commerce, distributed and reviewed survey results from Chamber members (filed). There was a 6% response, as only 53 members completed the survey. He stated that larger businesses feel that the Fire Department has a good program in place now and are unsure how additional inspections would increase the level of fire safety. The most unifying answer came from 83% of the respondents who believed that the proposed fee schedule was a

strategy to increase revenue for the City's budget. He reported that the Government Relations Committee was "sympathetic" to the Fire Department's proposal. The Chamber Board has not yet taken a position.

- Eileen St. Yves, member of the California Apartment Association and President of the San Joaquin County Rental Property Association, reported that they are currently dealing with the very high fees being charged by the Stockton Fire Department. In addition, apartment liability and fire insurance has increased dramatically. She stated that the response time of the Lodi Fire Department was very good and voiced support for the Department's proposal. In reply to Council Member Johnson, Ms. St. Yves expressed her opinion that 50% of the liability and fire insurance increase was related to the inspection issue.

Public Portion of Hearing Closed

Council Member Hansen stated that he did not want non-profit groups charged fees. In reference to the Chamber of Commerce's survey, he pointed out that 10 of 14 comments were negative and suggested that it may be indicative of the general opinion once full implementation of the program commences.

Fire Marshal Person explained that exceptions to the fee schedule can be made by himself, the Fire Chief, and the City Council. He noted, however, that the Rotary Club coordinates the 4th of July event, which requires a considerable amount of Fire Department staff time. The haunted house at Hutchins Street Square is organized by the Youth Commission, and staff will determine whether or not to charge a fee for the inspection. He acknowledged that some of the new Fire Code sections were taken from the City of Milpitas Code.

Mayor Beckman expressed support for business inspections and charging for State-mandated inspections and developer fees. He was opposed to charging a fee for anything that the Fire Department was not currently doing, including permitting.

Council Member Johnson asked staff to consider inviting a representative from the commercial underwriting industry to attend the April 20 Regular City Council meeting to provide a presentation regarding the ISO rating and how it affects insurance.

In response to Council Member Hansen, Fire Marshal Person confirmed that annual operating permits and inspections would have annual fees; however, many are not applicable at this time, e.g. aircraft inspections. Fire Chief Pretz reported that there are 50 firefighters to conduct the business inspections, which is adequate staffing for that aspect of the program. Data will be gathered over the next two years to ascertain what resources are needed to carry out the program.

Council Member Hansen supported the Fire Department's proposal related to business and State-mandated inspections, new development, tenant improvements, and site plan review. He was opposed to charging fees to 501(c)(3) organizations and favored adding a statement that would clearly delineate the exception for non-profit groups. In reference to annual permits and inspections, he suggested that there be no charge for the first year, at which time the businesses would be informed of upcoming annual fees so that they can prepare and budget for the charges in advance.

Council Member Mounce spoke in support of the Fire Department's proposal as presented. She also agreed with Council Member Hansen's recommendations regarding non-profit groups and waiving fees in the first year to allow businesses an opportunity to prepare for annual inspections and permit charges.

MOTION / VOTE:

The City Council, on motion of Council Member Johnson, Mounce second, introduced Ordinance No. 1759 adopting that portion of the State Building Standards Code that imposes substantially the same requirements as are contained in the Uniform Fire Code, 2000 Edition, published by the Western Fire Chiefs Association and the California Building Standards Commission with errata, together with those portions of the "Uniform Fire Code, 2000 Edition" and the appendixes, the Uniform Fire Code Standards "1997 Edition," as amended by the "Uniform Fire Code Standards, 2000 Edition," published by the Western Fire Chiefs Association, not included in the State Building Standards Code, as modified and amended by this chapter, are adopted by this reference into this chapter and are hereby collectively declared to be the City of Lodi Fire Code; thereto, which code provides regulations governing the conditions hazardous to life and property from fire or explosion; repealing and reenacting Sections 15.20.010 through 15.20.460 inclusive and Section 9.12.010 of the code of the City of Lodi and all other ordinances and parts of ordinances in conflict therewith, as well as errors and inconsistencies within Chapter 15.40 – On Site Fire Protection, Sections 15.40.020, 15.40.100, and 15.40.110. The motion carried by the following vote:

Ayes: Council Members – Hansen, Johnson, Mounce, and Mayor Beckman

Noes: Council Members – None

Absent: Council Members – Hitchcock

RECESS

At 9:49 p.m., Mayor Beckman called for a recess, and the City Council meeting reconvened at 10:00 p.m.

J. COMMUNICATIONS

J-1 On recommendation of the City's contract administrator and Human Resources staff, the City Council, on motion of Council Member Hansen, Beckman second, rejected the following claim by the vote shown below:

Ayes: Council Members – Hansen, Johnson, Mounce, and Mayor Beckman

Noes: Council Members – None

Absent: Council Members – Hitchcock

a) Augustine Dias, date of loss August 28, 2004

J-2 The following postings/appointments were made:

a) The City Council, on motion of Council Member Hansen, Beckman second, made the following appointments by the vote shown below:

Ayes: Council Members – Hansen, Johnson, Mounce, and Mayor Beckman

Noes: Council Members – None

Absent: Council Members – Hitchcock

Lodi Improvement Committee

Robina Asghar Term to expire March 1, 2008

Ed Beswick Term to expire March 1, 2008

Wade Heath Term to expire March 1, 2008

b) The City Council, on motion of Mayor Beckman, Mounce second, directed the City Clerk to post for the following vacancy by the vote shown below:

Ayes: Council Members – Hansen, Johnson, Mounce, and Mayor Beckman

Noes: Council Members – None

Absent: Council Members – Hitchcock

San Joaquin County Emergency Food and Shelter Program

Paul Tarbell Unspecified term limit

J-3 Miscellaneous – None

K. REGULAR CALENDAR

- K-1 "Adopt 1) resolution accepting Certificate of Sufficiency of Petition for the Fire and Facilities Sales Tax Initiative submitted by John E. Johnson representing *Lodi Citizens for Public Facilities*; and 2) resolution to place the measure on the ballot for the November 7, 2006, General Municipal Election"

City Manager King noted that a staff report had been prepared by the City Clerk on this item.

Council Member Johnson asked that a fiscal impact study be made and a report presented to Council regarding the implications of the Fire and Facilities Sales Tax Initiative.

MOTION #1:

Council Member Johnson made a motion, Mounce second, to adopt Resolution No. 2005-65 accepting Certificate of Sufficiency of Petition for the Fire and Facilities Sales Tax Initiative submitted by John E. Johnson representing *Lodi Citizens for Public Facilities*.

DISCUSSION:

Mayor Beckman and Council Member Hansen also expressed an interest in receiving a fiscal impact report on the initiative.

VOTE:

The above motion carried by the following vote:

Ayes: Council Members – Hansen, Johnson, Mounce, and Mayor Beckman

Noes: Council Members – None

Absent: Council Members – Hitchcock

MOTION #2:

Council Member Johnson made a motion, Beckman second, to adopt Resolution No. 2005-66 placing the measure on the ballot for the November 7, 2006, General Municipal Election.

DISCUSSION:

In answer to Council Member Hansen, City Attorney Schwabauer explained that the California Elections Code regulates the options that Council has pertaining to this matter. Adopting the initiative/ordinance as presented is not an option in this case because it is for a special tax, which requires a two-thirds vote. Council could delay action this evening in placing the measure on the ballot until it received the fiscal impact analysis; however, once the report was received the action must then be taken to place it on the ballot for the next regular election.

Council Member Mounce congratulated all who worked toward qualifying the initiative and giving citizens an opportunity to vote on the measure, which offers many benefits to Lodi.

VOTE:

The above motion carried by the following vote:

Ayes: Council Members – Hansen, Johnson, Mounce, and Mayor Beckman

Noes: Council Members – None

Absent: Council Members – Hitchcock

City Manager King asked Council when it would like the fiscal impact report prepared, to which Mayor Beckman replied "in a few months" and Council Member Johnson indicated that any time before the election would be acceptable.

K-2 "Adopt 'Open Session Resolution' approving Guild Settlement"

City Attorney Schwabauer explained that the purpose of this item was to have an open session ratification of the Guild settlement that was approved in closed session on December 2, 2004. He outlined the following settlement terms:

- Guild will pay the City \$4.2 million, which will be placed in a trust fund that can only be used for clean up of PCE/TCE contamination;
- The City will pay \$2.2 million into the trust fund designated for clean up;
- Guild will turn over to the City its equipment, wells, and use of its property to continue the use of those wells and equipment, and will provide the work product done by its technical experts;
- Guild is assigning any claims that it has against any other parties in the Lodi area of contamination to the City of Lodi; and
- Guild and the Guild related parties will be released from liability for the contamination.

Mr. Schwabauer noted that there are two preconditions to the settlement that the City is awaiting resolution of: 1) the issuance of a covenant not to sue from the Regional Board and from the Department of Toxic Substances Control, i.e. those entities would agree that the settlement with the City resolves Guild's liability against them so that this agreement can secure a complete "walk away" for Guild; and 2) that the court issue a good faith settlement order barring additional claims against Guild from other parties.

MOTION / VOTE:

The City Council, on motion of Council Member Hansen, Johnson second, adopted "Open Session Resolution No. 2005-67" approving the Guild Settlement in the amount of \$2.2 million. The motion carried by the following vote:

Ayes: Council Members – Hansen, Johnson, Mounce, and Mayor Beckman
Noes: Council Members – None
Absent: Council Members – Hitchcock

K-3 "Adopt resolution approving payments to State Water Resources Control Board for PCE cleanup oversight and appropriating funds (\$32,000)"

City Manager King recommended that Council adopt the resolution approving payment to the State Water Resource Control Board for PCE cleanup oversight and to appropriate \$32,000. The source of the appropriation would come from a fund related to the cleanup of the central plume and the revenue would come from a portion of the settlement that the City received from its insurer and other settlements.

MOTION / VOTE:

The City Council, on motion of Council Member Hansen, Beckman second, unanimously adopted Resolution No. 2005-68 approving payments to the State Water Resources Control Board for PCE clean-up oversight and appropriating funds in the amount of \$32,000. The motion carried by the following vote:

Ayes: Council Members – Hansen, Johnson, Mounce, and Mayor Beckman
Noes: Council Members – None
Absent: Council Members – Hitchcock

K-4 "Adopt resolution approving salary adjustment to Manager, Customer Services and Programs, position in the Electric Utility Department"

Amy Flores, Management Analyst Trainee, explained that the salary range approved by Council at its meeting on January 5 for the Electric Utility position of Manager, Customer Service and Programs, inadvertently did not include a 2.345% cost of living adjustment that had occurred. The request before Council is intended to correct the retroactive application of the cost of living increase and, if approved, the range would go into effect on February 14, 2005.

MOTION / VOTE:

The City Council, on motion of Council Member Hansen, Beckman second, adopted Resolution No. 2005-69 approving the following salary adjustment to Manager, Customer Services and Programs, position in the Electric Utility Department by the vote shown below:

Ayes: Council Members – Hansen, Johnson, Mounce, and Mayor Beckman

Noes: Council Members – None

Absent: Council Members – Hitchcock

<u>Step A</u>	<u>Step B</u>	<u>Step C</u>	<u>Step D</u>	<u>Step E</u>
\$6,176.43	\$6,485.24	\$6,809.51	\$7,149.99	\$7,507.49

L. ORDINANCES

- L-1 NOTE: Due to a potential conflict of interest related to his spouse's employment with the Lodi Conference and Visitors Bureau, Mayor Beckman abstained from discussion and voting on this matter and vacated his seat at the dais at 10:13 p.m. Council Member Johnson served as temporary Chair of the meeting.

Following reading of the title of Ordinance No. 1756 entitled, "An Ordinance of the City Council of the City of Lodi Amending Lodi Municipal Code Title 12 – Streets, Sidewalks, and Public Places, Section 12.07.130, Relating to Lodi Tourism Business Improvement District Levy of Assessment—Collection, Delinquency, and Penalty," having been introduced at a regular meeting of the Lodi City Council held March 16, 2005, the City Council, on motion of Council Member Hansen, Mounce second, waived reading of the ordinance in full and adopted and ordered it to print by the following vote:

Ayes: Council Members – Hansen, Johnson, and Mounce

Noes: Council Members – None

Absent: Council Members – Hitchcock

Abstain: Council Members – Mayor Beckman

NOTE: Mayor Beckman returned to the dais at 10:14 p.m.

- L-2 Following reading of the title of Ordinance No. 1757 entitled, "An Ordinance of the City Council of the City of Lodi Amending Lodi Municipal Code Title 17 – Zoning, by Repealing and Reenacting Sections 17.72.110, 17.73.070, 17.74.070, and 17.81.070; Repealing in Their Entirety Sections 17.84.050 and 17.84.060; and Further Adding Chapter 17.88 Relating to Appeals," having been introduced at a regular meeting of the Lodi City Council held March 16, 2005, the City Council, on motion of Mayor Beckman, Johnson second, waived reading of the ordinance in full and adopted and ordered it to print by the following vote:

Ayes: Council Members – Hansen, Johnson, Mounce, and Mayor Beckman

Noes: Council Members – None

Absent: Council Members – Hitchcock

Abstain: Council Members – None

- L-3 Following reading of the title of Ordinance No. 1758 entitled, "An Ordinance of the City Council of the City of Lodi Amending Title 15, 'Buildings and Construction,' of the Lodi Municipal Code by Adding Chapter 15.66 Relating to County Facilities Fees," having been introduced at a regular meeting of the Lodi City Council held March 16, 2005, the City Council, on motion of Mayor Beckman, Mounce second, waived reading of the ordinance in full and adopted and ordered it to print by the following vote:

Ayes: Council Members – Hansen, Johnson, Mounce, and Mayor Beckman

Noes: Council Members – None

Absent: Council Members – Hitchcock

Abstain: Council Members – None

Continued April 6, 2005

M. ADJOURNMENT

There being no further business to come before the City Council, the meeting was adjourned at 10:15 p.m.

ATTEST:

Susan J. Blackston
City Clerk